



GOVERNMENT OF INDIA

# Chandigarh Administration Gazette

Published by Authority

---

No. 21] CHANDIGARH, MONDAY, FEBRUARY 17, 2020 (MAGHA 28, 1941 SAKA)

---

CHANDIGARH ADMINISTRATION  
LOCAL GOVERNMENT DEPARTMENT

## Notification

The 14th February, 2020

**No.6/1/98-FII(8)-2020/2724.**—In exercise of the powers conferred by Section 41E of the Punjab Municipal Corporation Act, 1976 ( as extended to U.T. Chandigarh) Act, 1994, the Administrator, Union Territory, Chandigarh is pleased to constitute the following 9 (Nine) Special Committees for the exercise of powers or discharge of functions mentioned against each of the Committees :—

### 1. Sanitation Committee :

1. Sh. Rajesh Kumar
2. Sh. Shakti Parkash Devshali
3. Smt. Asha Jaswal
4. Smt. Heera Negi
5. Sh. Gurpreet Singh Dhillon
6. Sh. Mahesh Inder Singh Sidhu
7. Smt. Farmila
8. Smt. Ravinder Kaur Gujral
9. Sh. Ajay Dutta

### 2. Environment & City Beautification Committee :

1. Dr. Jyotsna Wig `
2. Smt. Asha Jaswal
3. Sh. Daves Moudgil
4. Sh. Rajesh Kumar
5. Sh. Ravi Kant Sharma
6. Sh. Rajesh Gupta
7. Sh. Hardeep Singh
8. Sh. Devinder Singh Babla
9. Sh. Satish Kainth

Signature Not Verified  
Digitally signed by  
JATINDER KUMAR  
Date: 2020.02.17  
18:17:23 IST  
Reason: Publication  
Location:

( 225 )

*This is Digitally Signed Gazette. To verify, visit :  
<https://egazette.chd.gov.in>*

**3. Electricity Committee :**

1. Sh. Davesb Moudgil
2. Sh. Sachin Kumar Lohtiya
3. Sh. Arun Sood
4. Sh. Shakti Parkash Devshali
5. Sh. Vinod Aggarwal
6. Sh. Dalip Sharma
7. Sh. Mahesh Inder Singh Sidhu
8. Sh. Satish Kainth
9. Sh. Charanjiv Singh

**4. Fire & Emergency Services Committee :**

1. Sh. Gurpreet Singh Dhillon
2. Major General M.S.Kandal
3. Sh. Davesb Moudgil
4. Sh. Ravi Kant Sharma
5. Sh. Rajesh Gupta
6. Sh. Vinod Aggarwal
7. Sh. Devinder Singh Babla
8. Sh. Sat Parkash Aggarwal
9. Sh. Charanjiv Singh

**5. Apni Mandi & Day Market Committee :**

1. Smt. Sheela Devi
2. Smt. Farmila
3. Smt. Heera Negi
4. Sh. Ravi Kant Sharma
5. Smt. Chanderwati Shukla
6. Smt. Sunita Dhawan
7. Smt. Kamla Sharma
8. Dr. Jyotsna Wig
9. Ms. Shipra Bansal

**6. Women Empowerment Committee :**

1. Smt. Sunita Dhawan
2. Smt. Gurbax Rawat
3. Smt. Heera Negi
4. Smt. Chanderwati Shukla
5. Smt. Farmila
6. Smt. Ravinder Kaur Gujral
7. Smt. Sheela Devi
8. Smt. Kamla Sharma
9. Dr. Jyotsna Wig

**7. Enforcement Committee :**

1. Sh. Kanwarjeet Singh Rana
2. Sh. Anil Kumar Dubey
3. Sh. Vinod Aggarwal
4. Smt. Asha Jaswal
5. Sh. Shakti Parkash Devshali
6. Sh. Gurpreet Singh Dhillon
7. Sh. Mahesh Inder Singh Sidhu
8. Sh. Bharat Kumar
9. Sh. Satish Kainth

**8. Slum, Colonies & Village Development Committee :**

1. Sh. Bharat Kumar
2. Sh. Jagtar Singh
3. Sh. Rajesh Kumar
4. Sh. Hardeep Singh
5. Sh. Kanwarjeet Singh Rana
6. Sh. Mahesh Inder Singh Sidhu
7. Smt. Sheela Devi
8. Sh. Ajay Dutta
9. Sh. Haji Mohd. Khurshid Ali

**9. Arts, Culture & Sports Committee :**

1. Ms. Shipra Bansal
2. Smt. Ravinder Kaur Gujral
3. Sh. Kanwarjeet Singh Rana
4. Smt. Sunita Dhawan
5. Sh. Dalip Sharma
6. Sh. Mahesh Inder Singh Sidhu
7. Smt. Gurbax Rawat
8. Major General M.S. Kandal
9. Sh. Haji Mohd Khurshid Ali

The term of all the committees shall be co-terminus with the terms of Mayor.

The 13th February, 2020.

ARUN KUMAR GUPTA, I.A.S.,  
Principal Secretary,  
Local Government,  
Chandigarh Administration.

## CHANDIGARH ADMINISTRATION

## LABOUR DEPARTMENT

## Notification

The 13th February, 2020

**No. 13/1/9714-HII(2)-2019/2636.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 2/2018 dated 16.01.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

BALA W/O SHRI UMESH R/O HOUSE NO. 1166, RAJIV COLONY, SECTOR 17, PANCHKULA (Workman).

AND

1. HARYANA PANCHAYAT BHAWAN THROUGH ITS DIRECTOR, PLOT NO. 3, SECTOR 28, MADHYA MARG, CHANDIGARH.

2. OSCAR SECURITY & MANPOWER, SCO NO. 916, 2ND FLOOR, MANIMAJRA, UNION TERRITORY CHANDIGARH (Management).

## AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that management No.1 is an undertaking working under the Haryana Rural Development Fund Administration Board and is running its official business through a building known as Haryana Panchayat Bhawan. The workman is a poor illiterate lady, who joined the office of management No.1 as Class – IV employee i.e. Sweeper on 10.11.2010 through a contractor namely M/s Plus Point L&C Society. Earlier contractor was changed by the management No.1 and management took over the charge as new contractor. Earlier wages which were paid to the workman was ₹ 3,500/- per month and later on same were enhanced and at the time of termination of services of the workman he was getting salary of ₹ 7,300/- per month which was paid by management through bank transactions. She had been in continuous service with management till 19.05.2017. She was paid lesser wages than that of daily wage (DC rates) applicable in the area of the appropriate Government of U.T. Chandigarh. Work & conduct of the workman was good and there is nothing adverse against her till 19.05.2017. On 19.05.2017 when the workman was working in the office, Shri Vishesh Verma – Caretaker of the management called all the Class – IV employees in his room and advised them to work properly. When all the Class – IV employees coming out of the room of Shri Verma at that point time, one lady namely Urmila, another Sweeper, started abusing the workman and there was hot talk between Urmila and her. Then Shri Verma called both of us in his room and directed both of us to leave the work place immediately by saying that the services of both are no more required and are terminated. The workman in order to avoid the scene at work place rang a phone to her husband who reached the spot and took her along with him. On 20.05.2017 the workman reach the office in time but she was verbally refused work by Shri Vishesh Verma and Supervisor Shri Ajay and Shri Sandeep. The workman time & again had requested the officers of the management to allow her join the duty but all in vain. On 30.05.2017, Urmila, the co-worker was permitted to join the duties but the workman was not permitted to join the duty. The workman filed the demand notice dated 14.09.2017 before the Assistant Labour Commissioner, Union Territory Chandigarh for conciliation and also sent the same to the office of management No.1. Management No.1 vide letter dated 29.09.2017 replied the demand notice by saying that the services of the house keeping, security, plumbing, gardening in the premises of Haryana Panchayat Bhawan have been outsourced to management No.2 and the workman was not offered to serve as Sweeper by management No.1 and she may approach management No.2 for her



redressal. The parties appeared before the Assistant Labour Commissioner, Chandigarh for conciliation but no settlement reached between the parties. The management is indulged in unfair labour practice since very beginning. The requirement of the Sweepers is always there but in violation of the labour laws the management is keeping the workers through contractor and that too in violation of provisions of the Contract Labour (Regulation & Abolition) Act, 1970. Management No.1 is not registered with the appropriate Government for keeping the workmen through contractor. Even the contractor had also not obtained the license from the appropriate Government for providing the manpower to management No.1. Before terminating the services of the workman, no notice / notice pay was given to the workman. No show cause notice, no charge sheet was ever issued to the workman for the alleged misconduct. The workman is without any work after her illegal termination and her family is consisting of five members including four school going children and a husband, who is also a daily wager. Juniors namely Kranti @ Sonu, Sunita, Manju are working with the management where her services were terminated in an illegal manner. Fresh person namely Lillu was kept after termination of her services. Action of the management in terminating her services is illegal, unjust, arbitrary and in violation of Section 25-F, 25-G & 25-H of the ID Act and principles of natural justice. Ultimately, it is prayed that the workman be reinstated with continuity of service, full back wages and all consequential benefits.

3. Management No.1 contested the case of the workman and filed written statement raising preliminary objection that work for maintenance of the building i.e. house keeping, security, plumbing, gardening, maintenance of electrical appliances and fire fighting system etc. had been outsourced to different private contractors by way of open tenders in the leading newspapers from time to time. Presently M/s Oscar Security & Manpower, Manimajra is rendering the services of house keeping, security, gardening, plumbing etc. on contract basis according to scope of work and the answering management is paying contractual amount directly to the firm. There is no relationship of master & servant between the answering management and workman. On merits, it is pleaded that the Haryana Panchayat Bhawan is administered under the control of Haryana Rural Development Fund Administration Board. Work for maintenance of the building i.e. house keeping, security, plumbing, gardening, maintenance of electrical appliances and fire fighting system etc. had been outsourced to different private contractors by way of open tenders in the leading newspapers from time to time. There is no sanctioned post of Sweeper with the answering management. The workman was not offered to serve as Sweeper on 10.11.2010 by answering management. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. Management No.2 contested the case of the workman and filed written statement that the answering management was allotted the contract in the year October 2014 and thereafter the workers salary was being paid through the answering management. The workman herself admitting that she was not appointed through answering management as she was already working with management No.1. Work & conduct of the workman was not satisfactory. She was given several warning for not using the abusive language against co-worker and management No.1. Management No.1 has not given any information pertaining to the incident and never asked the answering management to take action against the workman. Attendance register was always maintained by management No.1 itself. The answering management is not principal employer of the workman so management No.2 cannot be held liable for the violation of any provisions of the ID Act. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

5. The workman filed replication reiterating the averments of her case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Whether there is no relationship of master & servant between management No. 1 & workman? OPM-1
3. Relief.

6. In support of the case, the workman examined herself as AW1. Learned representative for the workman closed the evidence. On the other hand, management No. 1 examined Shri Vishesh Verma – Accountant & Care Taker as MW1 and closed the evidence. Management No.2 examined Shri Kuldeep Singh–State Officer as MW2 and closed the evidence.

7. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows:-

**ISSUE NO. 1 & 2 :**

8. Onus to prove issue No.1 was on the workman whereas onus to prove issue No.2 was on management No.1 but both these issues are taken up together to avoid repetition of discussion and for the sake of convenience. Learned representative for the workman has examined the workman as AW1, who deposed that she joined management No.1 as Class - IV employee i.e. Sweeper on 10.11.2010 through contractor namely M/s Plus Point L&C Society, which was later on changed by management No.1 and management No.2 take over the charge as new contractor. The post of the Sweeper is a sanction post but there is no permanent Sweeper in the Panchayat Bhawan building. At the time of termination she was getting salary of ₹ 7,300/- per month which was paid by the management through bank transaction. She had been in continuous service with the management till 19.05.2017. There is nothing adverse against her till 19.05.2017. She further deposed that on 19.05.2017 when she was working in the office Mr. Vishesh Verma, the Caretaker of the management called all the Class – IV employees in his official room and advised them to work properly. When all the Class – IV employees were coming out of the room of Mr. Verma, one lady namely Urmila, another Sweeper started abusing her and there was hot talk between Urmila and her upon which Mr. Verma called both of us in his room and directed us to leave the work place immediately by saying that the services of both are no more required and both are terminated. She further deposed that on 20.05.2017 she reached the office in time but she was verbally refused work by Shri Vishesh Verma and Supervisor Mr. Ajay and Mr. Sandeep. She time & again had requested the officers of the management to allow her to join the duty but all in vain. On 30.05.2017 Urmila the co-worker was permitted to join the duty but she was again not permitted to join the duty.

9. Learned representative for workman has argued that the workman is poor lady and joined the office of management No.1 on 10.11.2010 through the contractor and was getting salary of ₹ 7,300/- per month which was paid by the management through bank transaction. Work & conduct of the workman was good and she continuously worked for seven years and completed 240 days of service. It is further argued that the Care Taker of management No.1 asked the workman and other lady Urmila that their services are no more required as there was altercation took place between the workman and Urmila. She was verbally refused work by the management. He prayed for reinstatement of the workman with continuity of service and full back wages.

10. On the other hand, learned representative for management No.1 examined Shri Vishesh Verma– Accountant & Care Taker as MW1, who deposed that the workman was never appointed/offered to work as Sweeper at any stage with management No.1. Work for maintenance of the building i.e. house keeping, security, plumbing, gardening, maintenance of electrical appliances and fire fighting system etc. had been outsourced to different private contractors by way of open tenders in the leading newspaper from time to time. Presently, M/s Oscar Security & Manpower, Manimajra is rendering the services for house keeping, security, gardening, plumbing etc. on contract basis and management No.1 is paying contractual amount directly to the firm. The workman was not offered to serve as Sweeper by management No.1 as the same was offered by management No.2 i.e. M/s Oscar Security & Manpower so question of master & servant between the workman and management No.1 does not arise. The contract of management No.2 with management No.1 has already been terminated.

11. Learned representative for management No.1 has argued that the Haryana Panchayat Bhawan is administrated under the control of Haryana Rural Development Fund Administration Board. The work for maintenance of building had been outsourced to private contractor by way of open tender. There is no sanctioned

post of Sweeper with the management. The workman was not offered to serve as Sweeper on 10.11.2010. No letter of appointment was given to her. There is no relationship of employer & employee between management No.1 & workman so question of issuing show cause notice to the workman does not arise. There is no violation of provisions of the ID Act on the part of management No.1. He prayed for dismissal of the present industrial dispute.

12. Learned representative for management No.2 examined Shri Kuldeep – Field Officer as MW2, who deposed that the service contract for providing manpower was allotted for the period from October 2014 to May 2017 by management No.1 and during such period of contract, the payment of wages and other dues of the workmen have been duly paid to them. Management No.1 had not given any information for change of any workman from the contractor's roll as the physical attendance of every workman was marked by the department itself and attendance sheet of all the workmen are also maintained by management No.1. Neither management No.1 nor the workman ever intimated management No.2 with regard to alleged termination of the workman.

13. Learned representative for management No.2 has argued that management No.1 has not given any information for change of any workman from the contractor roll as physical attendance of the workman was marked by management No.1 and attendance sheet of all the workmen were also maintained by management No.1. Management No.2 has requested management No.1 to reinstate the workman several times. The management had duly complied with the provisions of ESI and accordingly the amount of ESI and PF was duly deposited. Management No. 2 is not a principal employer so management No.2 cannot be held liable for violation of any provisions of the ID Act. He prayed for dismissal of the present industrial dispute.

14. After giving my carefully consideration to the rival contentions of both the sides, I find that it is nowhere disputed that the workman joined the office of management No.1 on 10.11.2010. It is the case of the workman herself that initially she was appointed through the contractor namely M/s Plus Point L&C Society and thereafter contractor was changed by management No.1 and management No.2 took over the charge as new contractor. The workmen remained the same with management No.2 after taking over the charge from the earlier contractor. As regards the wages of the workman is concerned, it was enhanced to ₹ 7,300/- per month so the continuity of service of the workman is nowhere disputed. Now as regards the relationship of employer & employee is concerned, it is clear case of the workman that she was appointed by the contractor i.e. management No.2. No doubt she was working with management No.1. Hence, there is no relationship of employer & employee between management No.1 and workman.

15. As regards the termination of the workman is concerned, as per averments of the workman, the Care Taker of management No.1 told the workman and one Urmila that they both are no more required and services of both were terminated as there was heated altercation between the workman and one Urmila but management No.1 has failed to produce on record any attendance register through which it can be proved that she was remained present at the time of duty. No notice was ever issued by management No.1 to the workman, no regular inquiry has been conducted by management No.1 so it is crystal clear that the workman was verbally terminated from the service, as per allegation of the workman. Now the question arises when the workman was not employee of management No.1 then how can her service can be terminated by management No.1. Management No.2 is simply taking the plea that management No.1 had not given any intimation to management No.2 with regard to the misconduct of the workman. MW1 Shri Vishesh Verma is stating stated during his cross-examination that he is not aware if there was any incident between Sweepers on 19.05.2007 and he cannot tell why the workman was terminated. He admitted that it is correct that they had not written any letter to the Oscar company when the services of the workman were dispensed with. The contract of the Oscar company was terminated in the year June 2019. So if the term of the contractor expires then it is the duty of management No.2 to issue the notice to the workman with regard to informing the workman about expiry of contract but no notice of expiry of contract is on file. Admittedly the workman had worked for seven years and had completed 240 days of service. As per evidence on record of Shri Kuldeep Singh, MW2 admittedly the workman was engaged with the department from 2010 to 2017 and they have taken over the charge of labour from the earlier contractor working with the department and the workman had completed 240 days of service and no letter was issued to the workman after terminating her services.

No charge sheet was issued and no inquiry was conducted. As per evidence of Shri Vishesh Verma the contract of management No.2 has been expired so question of reinstatement does not arise. In these circumstances, keeping of view length of service and last drawn wages of the workman ends of justice would be met if the workman is compensated with lump sum compensation of ₹ 30,000/-. In the light of discussions made above, issue No.1 is partly decided in favour of the workman and against management No.2 whereas issue No.2 is decided in favour of management No.1 and against the workman.

#### RELIEF :

16. In the light of findings on the issues above, this industrial dispute is partly allowed *qua* management No. 2 and declined *qua* management No.1. The workman is entitled for lump sum compensation of ₹ 30,000/- from management No.2. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . . ,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No.PB0095.

The 16.01.2020.

#### CHANDIGARH ADMINISTRATION

#### LABOUR DEPARTMENT

#### Notification

The 17th January, 2020

**No. 13/1/8842-HII(2)-2020/1102.**—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 08/2010 dated 25.11.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PRESIDENT/GENERAL SECRETARY, COURIERS COMPANIES WORKER UNION, REGD. OFF. C/O 180, PHASE-I, OPPOSITE G.H.S. KARSON, P.O. RAMDARBAR, CHANDIGARH. (Workers' Union)

AND

FIRST FLIGHT COURIERS LIMITED, 406-A, INDUSTRIAL AREA, PHASE-II, CHANDIGARH (Management)

#### AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/8842-HII(2)-2007/1086, Dated 20.01.2010 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

“Whether the demand raised in the demand notice dated 12.04.2009 made The President/General Secretary, Couriers Companies Worker Union, Regd. Office C/o 180, Phase-1, Opposite G.H.S. Karson, P.O. Ramdarbar, Chandigarh to M/s First Flight Couriers Limited, 406-A, Industrial Area, Phase – 2, Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?”

*This is Digitally Signed Gazette. To verify, visit :  
<https://egazette.chd.gov.in>*



2. The President/General Secretary, Couriers Companies Worker Union (hereinafter called “workers’ union”) had served demand notice dated 12.04.2009 upon M/s First Flight Couriers Limited (hereinafter called “management”) under Section 2 of the Industrial Disputes Act, 1947 (hereinafter called “ID Act”). Upon notice, the workers’ union appeared through its representative. Statement of claim was filed. Demands raised by the workers’ union is as under :—

1. Facilities admissible to the workman under labour laws may be provided to each workman.
2. In every year, one woollen dress, two cotton dresses, one pair shoes and one rain coat may be provided to Dak Messenger so that the work of the company may be disposed of regularly.
3. Deduction of P.F. may be on the basis of minimum rates of wages fixed by the Chandigarh Administration.
4. Working hours may be fixed as 8 hours and for additional duty, double over time may be provided.
5. ₹ 8,000/- per month and bonus be paid keeping in view the present price index.
6. Services of all workmen be regularized under intimation to them and weekly rest be provided.
7. Standing Orders after certification from the Certifying Officer be intimated to all workmen.
8. Depreciation and maintenance allowance be provided to every Dak Messenger in addition to monthly wages or company may provide separate vehicle to the Dak Messenger for distribution of office dak.
9. Prohibition for the use of unparliamentarily language, caste-remarks, abusive language with the workmen so that the workmen may live in peaceful life.
10. Travelling facilities for visiting religious places with family be provided to the union in a year, and the expenditure so fixed, be intimated.
11. Sports facilities on the basis of Haryana State be provided to all willing workmen at once.
12. Company may cover every Dak Messenger under insurance policy at its own expenses.

3. The management contested the case of the workers’ union and filed written statement raising preliminary objection that the majority of issues / demands mentioned in the claim are neither covered under Section 10(1)(C) nor in the second schedule or third schedule. In parawsie reply, it is pleaded as under :—

1. The workers’ union failed to specify which are admissible facility under the labour laws which he is mentioning.
2. The management is working in financially tight & competitive environment and moreover company is not under any legal obligation to provide dresses.
3. The management is fully complying with the provisions of Employees’ Provident Funds & Miscellaneous Provisions Act, 1952 in letter and spirit.
4. The management is already following eight hour work schedule with lunch break and the rules regarding over time.
5. The management in spite of tight financial position due to neck to neck competition is already paying the minimum wages applicable from time to time and bonus is also paid under the provisions of Payment of Bonus Act, 1965.

6. The services of the concerned employees is regularised as per norms and every employee is given weekly rest on Sundays.
7. The applicable Model Standing Orders notified by Chandigarh Administration are being followed and the process to get the same certified has been set in motion.
8. The concerned field employees are already paid additional amount with fuel reimbursement, for maintenance of vehicle.
9. The management is part of All India network, professionally managed on modern management concepts. The employees work in respectful and peaceful environment and no alleged un-parliamentary language etc. is used.
10. The management is working in financially tight and competitive environment and the management is not under any legal obligation to provide travel facility asked for.
11. The management is working in financially tight and competitive environment and the management is not under any legal obligation to provide sports travel facility provided by Haryana State.
12. The management is working in financially tight and competitive environment and the management is not under any legal obligation to provide insurance policy facility asked for. Employees are already covered under the Employees State Insurance Act, 1948.

Ultimately, it is prayed that the claim of the workers' union be answered in negative.

4. The workers' union filed the replication reiterating the averments of its case and denied the averments in the written statement. From the pleadings of the parties, following issues were framed:-

1. Whether the reference is not maintainable ? OPM
2. Whether the demand raised in the demand notice dated 12.04.2009 by the workers' union is genuine & justified, if so, to what effect and to what relief workers' union / workers is entitled to, if any ? OPW
3. Relief.

5. During the pendency of the present reference, learned representative for the management pleaded no instructions to pursue the present case as the company has been closed down so withdraw his authority letter on behalf of the management. None appeared on behalf of the management as such it was proceeded against *ex parte*. In *ex parte* evidence, the workers' union examined Shri Gajinder Singh, office bearer of the union as AW1. Learned representative for the workers' union closed the evidence.

6. I have heard learned representative for the workers' union and have gone through the file carefully. Learned representative for the workers' union has argued that the demands raised by the workers' union is genuine demands of the workmen as it is the responsibility of the management to implement the labour laws within the prescribed statutory period.

7. I have very carefully considered the submissions of learned representative for the workers' union. In the present case, the demands were raised by the workers' union. The management had filed the written statement thereafter an application under Section 36 of the ID Act was filed by the workers' union for debaring the representation of the management through advocate Shri S. S. Lamba, which was allowed *vide* order dated 14.03.2013 by the then Presiding Officer of this Court/Tribunal. Thereafter the management had approached the Hon'ble Punjab & Haryana High Court challenging the order passed by the then Presiding Officer of this Tribunal/Court by way of CWP No. 4349 of 2014 wherein the proceedings in the present reference was stayed. During the pendency of the reference, learned representative for the management pleaded no instructions

as the firm has been closed down as such notice to the management was issued which was received back with the report that 'Firm Shifted'. The management was proceeded against *ex parte* in the present. The writ petition filed by the management before the Hon'ble Punjab & Haryana High Court was also dismissed for want of prosecution. As per the statement learned representative for the management and order dated 20.08.2019 passed by Hon'ble Punjab & Haryana High Court, the company i.e. M/s First Flight Couriers Limited has already been closed down so the demands raised by the workers' union has become infructuous. Accordingly, this reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . .,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No.PB0095.

The 25.11.2019.

## CHANDIGARH ADMINISTRATION

### LABOUR DEPARTMENT

#### Notification

The 17th January, 2020

**No. 13/1/9700-HII(2)-2020/1097.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 45/2014, dated 03.12.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

ROHIT YADAV S/O SHRI AMBIKA YADAV, R/O HOUSE NO.182, BLOCK 'E', COLONY No.4, INDUSTRIAL AREA, PHASE-I, CHANDIGARH. (Workman)

AND

AUTOPACE NETWORK PRIVATE LIMITED, PLOT NO. 112-13, INDUSTRIAL AREA, PHASE-I, CHANDIGARH (Management)

#### AWARD

1. This award shall dispose of the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he was appointed as Helper on 12.05.2008 and was drawing a salary of ₹ 5,500/- per month which was less than minimum wages. Verbal order of termination dated 05.07.2012 was passed in highly arbitrary and *mala fide* manner in gross violation of statutory provisions of the ID Act and principles of natural justice. At the time of termination neither any retrenchment compensation was paid or offered in violation of provisions of Section 25-F of the ID Act. Before terminating the services of the workman neither any charge sheet was served nor any inquiry was conducted against the workman in violation of principles of natural justice. Juniors to the workman were retain in service in violation of provisions of Section 25-H of the ID Act. Verbal order of termination is unconstitutional. The workman was also not paid balance salary for the period from 01.06.2012 to 04.07.2012. The management had not paid retrenchment compensation including bonus and due wages and other allowances. Ultimately, it is prayed that verbal order of dismissal dated 28.02.2012 be declared as illegal and the workman be reinstated into service with all service benefits including continuity of service, full back wages and all consequential relief.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the workman had not completed 240 days continuous service during last twelve 12 preceding months. The workman had abandoned the job himself. On merits, it is pleaded that the workman was appointed as Washingman. The management had not terminated the services of the workman at any occasion rather the workman had himself abandoned the job without any reasons. To avoid any disciplinary action, the workman had preferred this dispute. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be declined.

4. From the pleadings of the parties, following issues were framed —:

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. Earlier during the pendency of the present industrial dispute, the management was proceeded against *ex parte* on 10.05.2018 and *ex parte* award dated 17.05.2018 was passed against the management by the then Presiding Officer of this Tribunal/Court. Thereafter the application was filed by the management for setting aside *ex parte* order, which was allowed and subsequent award passed thereto was also set aside by the then Presiding Officer of this Court / Tribunal.

6. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, the management examined Shri Rakesh Kumar—Manager HRD as MW1. Learned representative for the management closed the evidence.

7. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

#### **ISSUE No. 1 :**

8. Onus to prove this issue was on the workman and to discharge the same learned representative for the workman has examined the workman as AW1, who deposed that he was appointed as Helper on 12.05.2008 and drawing salary ₹ 5,500/- per month which is less than the minimum wages. On 05.07.2012 his services were verbally terminated by the management in a highly arbitrary and *mala fide* manner in gross violation of the statutory provisions of the ID Act and principles of natural justice. At the time of termination neither any retrenchment compensation was paid nor offered in violation of provisions of Section 25-F of the ID Act. Before terminating his services, no charge sheet was given and no inquiry was held in violation of principles of natural justice. He further deposed that junior to him were retained in service in violation of Section 25-H of the ID Act.

9. Learned representative for the workman has argued that the services of the workman were terminated by the management without any notice, charge sheet or inquiry. He was not paid or offered notice pay and retrenchment compensation at the time of termination. The management had violated the provisions of Section 25-F of the ID Act and principles of natural justice so the workman is entitled for reinstatement with continuity of service and full back wages. He prayed for allowing of the present industrial dispute.

10. On the other hand, learned representative for the management has examined Shri Rakesh Kumar—Manager HRD as MW1, who deposed that the workman previously joined the services with the management with effect from 01.07.2009 and stopped reporting for duty with effect from 01.07.2012. At that time he was getting ₹ 5,500/- per month as wages. The workman had not completed 240 days continuous service during last twelve preceding months. The workman had abandoned the job himself and to avoid any disciplinary action the workman had preferred this dispute.



11. Learned representative for the management has argued that the services of the workman were never terminated by the management rather he had left the services of the management of his own and had abandoned the services so he is not entitled for any notice pay or retrenchment compensation and there is no violation of any provisions of the ID Act and principles of natural justice. He prayed for dismissal of the present industrial dispute.

12. After considering the rival contentions of both the sides, I find that admittedly the workman is the employee of the management and had worked with the management upto 05.07.2012. The workman is aggrieved that his services were terminated illegally by the management in violation of provisions of the ID Act and principles of natural justice whereas it is the stand of the management that the services of the workman were never terminated rather he had himself abandoned his services. In this regard it is observed that for the sake of argument if version of the management is accepted that the workman had abandoned the services of the management then also the management had failed to putforth any reasons for leaving the job by the workman. Moreover, abandoning the job / leaving the job without any intimation is also a misconduct for which issuance of show cause notice and conducting of inquiry is must whereas in the present case it also admitted case of MW1 Shri Rakesh Kumar – Manager HRD that no notice was issued to the workman when he stopped reporting for duty and no charge sheet was given to the workman, no inquiry was done and no retrenchment compensation was given to the workman.

13. In the light of discussion made above, the management has failed to prove that the workman had abandoned the services himself. Since the services of the workman were terminated illegally by the management in violation of provisions of the ID Act and principles of natural justice so he is held entitled to reinstatement with continuity of service and 40% back wages. Accordingly, this issue is decided in favour of the workman and against the management.

#### **RELIEF :**

14. In the light of findings on the issue above, this industrial dispute is allowed. The workman is entitled for reinstatement with continuity of service and 40% back wages. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . .,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No.PB0095.

The 03.12.2020.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

#### **Notification**

The 17th January, 2020

**No. 13/1/9701-HII(2)-2020/1100.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned

*This is Digitally Signed Gazette. To verify, visit :  
<https://egazette.chd.gov.in>*

hereby publish the following award bearing reference No. 86/2014, dated 02.12.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

VIJAY KUMAR, S/O SHRI BIDHI CHAND, R/O HOUSE NO.2148, MANIMAJRA TOWN, CHANDIGARH. (Workman)

AND

1. GROZ BECKERT ASIA PRIVATE LIMITED, 133-135, INDUSTRIAL AREA, PHASE-I, CHANDIGARH.

2. MR. BHARDWAJ-FACTOR MANAGER, M/S GROZ BECKERT ASIA PRIVATE LIMITED, 133-135, INDUSTRIAL AREA, PHASE-I, CHANDIGARH. (Management)

#### AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he had joined the service with the management as a Skilled Workman on 18.11.1984. Initially, he was working with Rumbling Department and was later on transferred to maintenance department. The workman was appointed as Plant Attendant in Alfa Level Department of the Maintenance Wing due to his dedication and hard work in the company. The workman in February 2014 was drawing Basic Pay ₹ 15,800/-, Dearness Allowance ₹ 5,395/-, Proficiency Incentive ₹ 5,332/-, Quality Incentive ₹ 1,807/-, House Rent Allowance ₹ 2,640/-, Education Allowance ₹ 100/-, Conveyance Allowance ₹ 800/-, Leave Travel Allowance ₹ 165/-, Medical Allowance ₹ 950/-, Shift Allowance ₹ 255/-, Night Shift Allowance ₹ 300/- and Attendance Bonus ₹ 125/-. Thus, the total emoluments per month of the workman were ₹ 33,669/-. The workman was on morning shift from 6:00 A.M. to 2:00 P.M. on 18.04.2014. Subsequently, he at 12:35 P.M. had proceeded to drink water, which was approximately 20 meters away from his place of duty. On return at 12:39 P.M. he had reset the machine No.1 in Alfa Level Department. There are six machines, which were being operated by the workman in the Alfa level Department. Mr. Mahesh Pal Singh-Manager has alleged that at about 12:40 P.M., he had observed the workman sleeping with his shoes having been removed. Thereafter, Mr. Mahesh Pal Singh-Manager had called Mr. Sandeep Singh-Assistant Manager Maintenance to the Alfa Level Department. Subsequently, it has been alleged that at about 12:45 P.M., Mr. Sandeep Kumar-Assistant Manager has started that the workman was sleeping on his chair with his shoes removed. This fact is denied by the workman as he had neither slept nor removed his shoes. In fact, he had reported to the union regarding ill-treatment being inflicted upon the workman by Mr. Mahesh Pal Singh-Manager. The union had reported the same to the Manager Mr. Parminder Singh Ghuman of the company. The Manager Mr. Mahesh Pal had allegedly initiated a complaint against the workman upon which the workman was issued with a charge-sheet and a departmental inquiry was initiated against the workman by the management. The Enquiry Officer was Mr. A. S. Raikhy – Advocate, who is on the pay role of the company. The management had examined two witnesses on behalf of the management, namely Shri Mahesh Pal Singh as MW1 and Mr. Sandeep Singh as MW2. The workman had also examined two witnesses in his defence i.e. himself as WW1 and Mr. Nardeep Singh as WW-2. The management had issued a show cause notice to file his reply to the charge sheet and the findings of the Enquiry Officer *vide* letter HR dated 01.08.2014. The workman *vide* his letter dated 02.07.2014 had sought the copy of the inquiry findings of the Inquiry Officer, which was supplied by the management *vide* its letter HR/430467 dated 27.06.2014. Subsequently, the workman *vide* his reply dated 07.08.2014 had forwarded the reply to the management. The management *vide* their letter No.HR/430467 dated 21.08.2014 had issued the termination notice to the workman. This termination notice states “you had been given full opportunity to prove your innocence but even then you could not prove your innocence. Further, “as such, you have committed a major misconduct and liable for major punishment under clause 23 II(d) of the Certified Standing Orders of the Company.” The contents of Section 23 II(d) of the Standing Orders, states “Sleeping on duty”.

Further, the contents of Section 23 III contain the provisions regarding the punishment for misconduct. The workman had forwarded a demand notice against the order of termination dated 21.08.2014 to the Assistant Labour Commissioner-cum-Conciliation Officer. Subsequently, the Assistant Labour Commissioner-cum-Conciliation Officer had summoned the parties. However, the conciliation proceedings between the parties failed as the management is having *mala fide* intention to terminate the service of the workman, who has put in more than 30 years of meritorious service. *Vide* its Memo No.ST/2014/5090 dated Chandigarh 30.10.2014 the Assistant Labour Commissioner-cum-Conciliation Officer has stated that there has been no settlement and directed the parties to file an application before the Industrial Tribunal-cum-Labour Court, Chandigarh, who has the jurisdiction to adjudicate upon the dispute. The management had illegally & unconstitutionally terminated the services of the workman on 21.08.2014. The major punishment as encompassed in the certified Standing Order of the company is dismissal from service and not termination as stated by the punishing authority. The punishing authority has acted in contravention of the certified standing orders. The workman after the termination of service by the management is gainfully employed at any work place and is unemployed, till date. Ultimately, it is prayed that the termination order dated 21.08.2014 passed by the management be set-aside or quashed and the workman be reinstated in service, with continuity of service with full back wages and all other benefits.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the workman was charge sheeted for serious acts of misconduct. The workman replied the charge sheeted denying the charges and in order to ascertain the truth, an Inquiry Officer was appointed. The workman along with his co-worker attended the inquiry proceedings throughout. The Inquiry Officer conducted a fair & proper inquiry by giving full opportunity to the workman to prove his innocence. On merits, it is pleaded that the workman was in the morning shift (Shift 'A') from 6:00 A.M. to 2:00 P.M. on 18.06.2014. The workman was found sleeping by Shri Mahesh Pal Singh-Manager (Maintenance) while he was on his regular round to the Shop Floor. After observing him sleeping, he called Mr. Sandeep Singh-Assistant Manager (Maintenance) on DECT phone to reach the place and confirm that he was sleeping. Mr. Sandeep Singh called the workman's name loudly to wake him up from his sleep. Shri Mahesh Pal Singh, Manager-Maintenance has alleged that about 12:40 P.M. the workman was sleeping with his shoes having been removed and thereafter he called Mr. Sandeep Singh-Assistant Manager (Maintenance) and it was found that the workman was still sleeping when Shri Sandeep Singh-Assistant Manager (Maintenance) called his name. Mr. Sandeep Singh also stated that the workman was sleeping on his chair with shoes having been removed. Copy of the inquiry report was supplied to the workman vide letter dated 27.06.2014 which was duly received by the workman on 30.06.2014 and the workman submitted his reply/comments on the inquiry findings on 02.07.2014. A letter dated 21.08.2014 was issued to the workman before issuance of termination letter. Opportunity of show cause notice was given and show cause notice dated 01.08.2014 was issued which was duly received by the workman on 04.08.2014. He submitted his reply to the show cause notice *vide* his letter dated 09.08.2014 and also availed the opportunity of personal hearing. No principle of natural justice has been violated by the management. The Management had never violated the provision of Certified Standing Order. The workman is gainfully employed throughout the period. Other averments of the case of the workman were denied.

4. The workman filed the replication reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed:-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman stepped into the witness box as WW1. Learned representative for the workman closed the evidence. On the other hand, the management examined Shri A. S. Raikhy-Inquiry Officer as MW1. Learned representative for the management tendered into evidence various documents and photocopy of inquiry file in respect of the workman and closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows:-

#### ISSUE No. 1:

7. Onus to prove this issue was on the workman and to discharge the same the workman himself stepped into the witness box as WW1 and deposed that he had joined the services of the management as skilled workman on 18.11.2004. Initially he was working with Rumbling Department and was later on transferred to Maintenance Department and thereafter he was appointed as Plant Attendant in Alpha Level Department of Maintenance Wing due to his hard working. He further deposed that he was drawing basic pay ₹ 15,800/-, Dearness Allowance ₹ 5,395/-Proficiency Incentive ₹ 5,332/-, Quality Incentive ₹ 1,807/-, House Rent Allowance ₹ 2,640/-, Education Allowance ₹ 100/-, Conveyance Allowance ₹ 800/-, Leave Travel Allowance ₹ 165/-, Medical Allowance ₹ 950/-, Shift Allowance ₹ 255/-, Night Shift Allowance ₹ 300/- and Attendance Bonus ₹ 125/- so his total emoluments per month were ₹ 33,669/-. He further deposed that he was on morning shift from 6:00 A.M. to 2:00 P.M. on 18.04.2014 and at 12:35 P.M. he had proceeded to drink water and returned on 12:39 P.M. and had reset the machine in Alpha Level Department. Mr. Mahesh Pal-Manager (Maintenance) had alleged that on 18.04.2014 at about 12:40 P.M. during the Shift 'A' in the Alpha Level Separator Room, he observed that he was sleeping with his eye closed, shoes removed and legs stretched out then he called Mr. Sandeep Singh-Assistant Manager (Maintenance) to confirm that he was sleeping. Allegations leveled Mr. Mahesh and Shri Sandeep-Assistant Manager are false and concocted. Mr. Mahesh has initiated a complaint him and he was issued charge sheet on 19.04.2014 which was received by him on 25.04.2016. Then he filed reply on 28.04.2016 and pleaded his innocence but the management had constituted a departmental inquiry and Shri A. S. Raikhy appointed as Inquiry Officer. He objected to his appointment as he was an Advocate and conducting one sides departmental inquiries in favour of the management. The General Secretary, GBA Workers' Union had also written a separate letter to the Factory Manager. He also submitted a letter to the Factory Manager stating that Shri A.S. Raikhy cannot be appointed as Inquiry Officer but his request was rejected. Thereafter the management examined two witnesses who acted against him with *mala fide* intention as he had complained about his misconduct and rude behaviour to the General Secretary of the Employee Union and to the management prior to the incident 18.04.2014. He further deposed that Shri A. K. Raikhy submitted his inquiry report on 26.06.2014. He submitted his comments to the inquiry report. The management had issued show cause notice dated 01.08.2014 and he submitted his reply to the show cause notice. The management had imposed major punishment of termination from service upon him with effect from 21.08.2014. He challenged the order of termination before the Assistant Labour Commissioner-cum-Conciliation Officer dated 01.08.2014 but the conciliation proceedings failed. Since the date of termination he is unemployed till date.

8. Learned representative for the workman vehemently argued that the workman was not guilty of serious misconduct for which he was charge sheet on 19.04.2014. The Inquiry Officer had conducted the inquiry without giving full opportunity to the workman to prove his innocence. It is further argued that during the course of inquiry proceedings list of documents and witnesses were not supplied to the workman in advance to prepare his defence. The disciplinary authority had not issued termination after going through the entire facts of the case properly. Only statements of management's witnesses were considered. The inquiry report was never supplied to the workman. It is further argued that findings of the Inquiry Officer were biased as the Inquiry Officer has no role to play. He was on the pay roll of the management. Action of the disciplinary authority is also not legal, just and proper. The punishment imposed by the punishing authority is disproportionate to the alleged misconduct. Termination of the workman is in gross violation of statutory standing orders. He has placed reliance on the citation **M/s Porrits & Spencer (Asia) Limited Versus Radhey Lal & Another**, 2009(4) SCT25(P&H) and **Capstan Meters (India) Limited Versus The Judge, Labour Court Jaipur & Others**, 1991(2)LLJ 290 (Raj). He prayed for setting aside the termination order and reinstatement of the workman with continuity of service and full back wages.



9. On the other hand, learned representative for the management examined Shri A. S. Raikhy-Inquiry Officer as MW1, who deposed that he was appointed as the Inquiry Officer and he sent a letter to the workman whereby he was intimated regarding holding of inquiry. He conducted the inquiry in accordance with the principles of natural justice and the workman was given sufficient opportunity to defend himself in the inquiry. He further deposed that he after having examined the oral as well as documentary evidence on record, came to the conclusion that the workman was guilty of charges as contained in the charge sheet. Original inquiry file is Exhibit 'M1'. Learned representative for the management has placed on record a photocopy of register letter dated 22.09.2014, whereby the payment of full & final dues of the workman i.e. ₹ 72,621/- vide Cheque No.0338956 was sent to the workman on 23.09.2014 at his address Exhibit 'MX1/1'; photocopy of register letter dated 01.10.2014 regarding payment of gratuity and payment of annual bonus was sent to the workman at his correct address on 04.01.2014 but received back undelivered with remarks 'addressee moved' Exhibit 'MX1/2'; photocopy of postal receipt is Exhibit 'MX1/3', original envelope containing cheques of gratuity and annual bonus is Exhibit 'MX1/4'; photocopy of bio-data of the workman Exhibit 'MX1/5' and matriculation certificate of the workman Exhibit 'MX1/6'. Learned representative for the management also placed on record the photocopy of inquiry file of the workman.

10. Learned representative for the management has argued that the workman was guilty of serious misconduct for which he was charge sheeted. The act of sleeping on duty amounts to major misconduct. In order to ascertain truth the Inquiry Officer was appointed by the management. The Inquiry Officer conducted a fair & proper inquiry. The workman was given opportunity to produce defense witness. The Inquiry Officer after taking into consideration all the statements of the witnesses and documents submitted the inquiry report on 26.06.2014 proving the charges against the workman. Thereafter copy of the inquiry report was supplied to the workman and he submitted his comments thereto. The workman was also issued show cause notice, which was also duly replied by him. He was also granted opportunity of personal hearing. Thereafter disciplinary authority confirmed the proposed punishment of termination by passing speaking order dated 21.08.2014. He argued that no principles of natural justice have been violated by the management. He has placed reliance on citations **G. R. Venkateshwara Reddy Versus Karnataka State Road Transport Corporation, Bangalore & Others**, 1995(1) LLJ 1011 (Karnataka); **Modern Food Industries (India) Limited Versus Second Industrial Tribunal, West Bengal & Others**, 2000(2) LLJ 177 (Calcutta); **Kashyap S. R. Versus Canara Bank & Others**, 2004-III-LLJ 340 (Allahabad); **Indian Telephone Industries Limited Versus Devishanker Kumar Shukla**, 2002(2) SCT 233 (SC), **Dr. Koti John Versus Vice-Chancellor, Andhra University, Visakhapatnam**, 2004(8) SLR 356 (AP); **Syed Rahimuddin Versus Director General, CSIR**, 2001(3) SCT 127 (SC); **State of U.P. & Others Versus Rama Kant Yadav**, 2003(2) SCT 227; **State Bank of Bikaner & Jaipur Versus Nemi Chand Nalwaya**, 2011(4) SCC 584; **V.V.F. Limited Versus Sarva Shramik Sangh & Others**, 1998 LLR 585 (Bom.); **Workers Employed in Hirakud Dam Versus State of Orissa**, 1971(1) SCC 583; **N.R.C. Employees' Union Versus N. R. C. Limited**, 2003(99) FLR 895 (Bom.) and **Bharat Forge Company Limited Versus A. B. Zodge**, 1996(2) SLR 492 (SC) and prayed for dismissal of the present industrial dispute.

11. After giving the careful considerations to the rival contentions of both the sides, I find that it is nowhere disputed that the workman had joined the services of the management with the company known as M/s Groz Beckert Asia Private Limited in November 1984 and the last wages drawn by the workman was ₹ 33,669/- and admittedly he was charge sheeted on 19.04.2014. As per charge sheet the workman was found sleeping while on duty on 18.04.2014. He was found sitting on chair with both eyes closed, shoes removed and legs stretched out completely. The domestic inquiry was conducted into the charges. The workman participated in the inquiry and he took the assistance of co-worker in the inquiry. The list of witnesses and documents were provided to the workman. The charges leveled in the charge sheet were explained to the workman by the Inquiry Officer so arguments addressed by learned representative for the workman that he was not explained charges by the Inquiry Officer does not inspire the confidence as purpose of inquiry was explained to him and list of witnesses and documents were provided to the workman in advance to prepare his defence. The management witnesses were examined in the presence of the workman and his co-worker. The workman made his defence statement and produced Shri Navdeep Singh-General Secretary of the workers' union in his support. Thereafter the Inquiry Officer after conclusion of

the entire evidence found the workman guilty of charges as contained in the charge sheet dated 19.04.2014. No evidence has been produced by the workman to corroborate that the union has taken up the matter with the Factory Manager for change of the Inquiry Officer. The management had its own Certified Standing Orders which includes list of major misdemeanours under Clause 23(II) and Procedure for dealing with cases of misconduct has been given/explained under Clause 23(iv)(a) to (h) of Standing Order. "Sleeping on duty" is a major misconduct under Clause 23(ii)(d) of Standing Order and if, any workman is found guilty of a major misconduct is subjected to punishment under Clause 23(iii)(a) & (b) of Standing Order. In the present case in hand, the concerned workman has been found guilty of major misconduct i.e. sleeping on duty and he was dismissed from the service on 21.08.2014 as per Clause 2(iii)(a) of Standing Order.

12. Further the arguments of learned representative for the workman that appointment of an outsider/stranger needs to be rejected is also devoid of force. As per Clause 23(iv)(a) of Standing Order does not debar a stranger or an outsider to be appointed as Inquiry Officer. Hence no violation has been conducted by the management. Moreover, the workman has failed to prove any prejudice which is caused to him by appointment of an outsider as Inquiry Officer. So the inquiry has been conducted fairly & properly and the workman has been found guilty of major misconduct has been dismissed as per Certified Standing Orders of the company. Further reliance is placed on citation **Indian Telephone Industries Limited Versus Devishanker Kumar Shukla** (*supra*) wherein the Hon'ble Supreme Court has held that there is no other prohibition about choice of the person to be appointed Inquiry Officer. In citation **Dr. Koti John Versus Vice-Chancellor, Andhra University, Visakhapatnam** (*supra*) the Hon'ble Andhra Pradesh High Court held that in disciplinary proceedings there is no prohibition for the appointment of a person not in the employment of university to be an Inquiry Officer. Further in citation **Kashyap S.R. Versus Canara Bank & Others** (*supra*) the Hon'ble Allahabad High Court held that every minor technical mistake would not vitiate inquiry.

13. As regards the dismissal of the workman is concerned law is well settled in citation **State of U.P. & Others Versus Rama Kant Yadav** (*supra*) wherein Hon'ble Supreme Court of India held that where the charges are quite grave, it was not proper to interfere with the punishment inflicted. In the present case in hand, the workman was found guilty of sleeping during the duty hours and as per Standing Orders of the management sleeping on duty is a major misconduct. Further it is well settled law that the Court will not act as appellate court and re-assessed the evidence led in the domestic inquiry nor interfere on the ground that another view is possible on the material on record. When the inquiry is fairly and properly held and findings are based on evidence, the question of adequacy of evidence will not be the ground for interference. Reliance is placed on citation **State Bank of Bikaner & Jaipur Versus Nemi Chand Nalwaya** (*supra*).

14. Further during the cross-examination before this Court the workman has himself admitted that it is correct that he was charge sheeted *vide* letter dated 19.04.2014 and he submitted his explanation to the charge sheet *vide* letter dated 28.04.2014. It is correct that thereafter Shri A. S. Raikhy was appointed as the Inquiry Officer and he participated in the inquiry from time to time. Shri Raj Pal Singh was his co-worker in the inquiry. He further admitted that it is correct that he had no personal grouse against Shri A. S. Raikhy and he requested the Inquiry Officer to conduct the inquiry in Hindi and his request was accepted by the Inquiry Officer. He also admitted that it is correct that during inquiry the copies of documents on which the management relied upon were given to him on 14.05.2014 and 20.05.2014 and a list of witnesses of management was supplied to him on 20.05.2014. He further admitted that it is correct that the management witnesses were examined in his and his co-worker's presence and the management witnesses were also cross-examined by him and his co-worker. He made his defence statement in the presence of his co-worker on 29.05.2014 before the Inquiry Officer and he was cross-examined by the representative of the management in the presence of his co-worker. He further admitted that it is correct that he produced his witness Shri Nardeep Singh and he was cross-examined by the management representative in the presence of his co-worker.

15. In the light of discussion made above and authorities relied upon, the workman has failed to prove that a fair & proper inquiry has not been conducted against him and he was not afforded full & fair opportunity during the course of inquiry. The authorities relied upon by learned representative for the workman are distinguishable to the facts & circumstances of the present case. Accordingly, this issue is decided against the workman and in favour of the management.

**RELIEF :**

14. In the light of findings on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . . .,

(ANSHUL BERRY),

Dated: 02-12-2019.

PRESIDING OFFICER,  
Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No.PB0095.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

**Notification**

The 16th December, 2019

**No. 13/1/9684-HII(2)-2019/20151.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 14/2016, dated 18.10.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

PURAN CHAND S/O SHRI GIAN CHAND R/O HOUSE NO. 290, KHUDA LAHORA, UNION TERRITORY, CHANDIGARH (Workman)

AND

1. THE INDIAN RED CROSS SOCIETY, UNION TERRITORY CHANDIGARH THROUGH ITS DIRECTOR/MANAGING DIRECTOR, KARUNA SADAN BUILDING, SECTOR 11-B, CHANDIGARH

2. MANAGER, INDIAN RED CROSS CANTEEN, PGI, SECTOR 12, CHANDIGARH (Management).

**AWARD**

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he was engaged as Salesman in 1991 by management No.1 at Indian Red Cross Canteen at PGI Complex, Sector 12, Chandigarh and he had worked under the supervision of management No.2, who is the Manager of management No.1. The workman had worked upto October 2011. The workman along with others were called by management No.1 and informed that the canteen is going to be renovated and they will be called back after renovation of the canteen. Thereafter the workman visited along with others to the office of management No.1 many times but they were assured that they will be

reinstated with continuity of service with back wages as such the workman waited for sufficient time and ultimately in the month of August 2012 he requested management No.1 that 9-10 months had already been lapsed and it is only then they refused to reinstate the workman into service. The workman was being paid salary by the management after deduction of PF/ESI and the management was depositing the PF in the PF account of the workman. At the time of termination of services of the workman, the management was paying salary ₹ 4,500/- per month after deduction of PF/ESI and the salary paid to the workman was less than the minimum wages. The workman had continuously worked with the management No.1 as Salesman and had completed more than 240 days of service in each calendar year and had also completed more than 240 days in 12 months prior to impugned termination. The management had terminated the services of the workman without issuing one month notice and without paying any retrenchment compensation so the management had violated the provisions of Section 25-F of the ID Act. Since the management had shunted out the workman without following the provisions of the ID Act so the action of the management amounts unfair labour practice and the same is violative of Section 25-T of the ID Act. Ultimately, it is prayed that the workman be reinstated with continuity of service and full back wages.

3. Management No.1 contested the case of the workman and filed written statement raising preliminary objection that there is no relationship of employee and employer between the workman and answering management. The PGI authorities had given some space within the premises of the PGI, Chandigarh for running a canteen. The said space was given by the PGI to management No.1 on license basis which was not renewed after 31.08.2011. In order to run the canteen, management No.1 engaged a manager for running the said canteen at his own level with his own infrastructure etc. on the terms & conditions as agreed between management No.1 and the contractor / Manager, engaged from time to time. As per the agreement, the said contractor/Manager was authorised to engage any manpower at his own level and as per his own convenience with the categorical condition that such manpower would not be the employee of management No.1. On merits, it is pleaded that the workman was working under management No.2. As the workman was never been in the employment of management No.1 so there was no occasion for giving any assurance to the workman for his reinstatement etc. When the license of the premises was not renewed by the PGI after 31.08.2011 there was no occasion for the workman to continue to work with management No.2 upto October 2011. Neither the workman visited the office of management No.1 at any point of time nor any assurance was given to the workman by management No.1 for the simple reason that there was no relationship of employee and employer between the workman and management No.1. It was management No.2 who was responsible to deduct the EPF from the wages of the manpower engaged by management No.2, if any and management No.1 was not responsible for the same. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. Upon notice, none appeared on behalf of management No.2 despite service as such management No.2 was proceeded against *ex parte*. From the pleadings of the parties, following issues were framed:-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether there is no relationship of employee & employer in between workman & management No.1 ? OPM-1
3. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, management No.1 examined Shri Sushil Kumar – Training Supervisor-cum-Incharge, Court Cases as MW1. Learned representative for the management closed the evidence.



6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

**ISSUE NO. 1 & 2 :**

7. Both these issues are taken up together to avoid repetition of discussion. While stepping into the witness as AW1 the workman deposed that he was engaged as Salesman in 1991 by the management at Red Cross U.T. Canteen at PGI Complex, Sector 12, Chandigarh and he worked under the supervision of management No.2 who is the Manager of management No.1 till October 2011. Thereafter he along with others was called by management No.1 and were informed that the canteen is going to be renovated and they will be called back after renovation of the canteen and during renovation period the canteen will be remained closed. He further deposed that he along with other approached the office of management No.1 various time but he was assured that he will be reinstated along with others. In the month of August 2012 management No.1 was finally refused to join the duties. He also deposed that he had completed more than 240 days of service in each calendar year and had also completed more than 240 days in last twelve months preceding his termination. He further deposed that he had worked from the date of joining with management No.1 under the supervision of various Managers, which were engaged and disengaged by the management after some years.

8. Learned representative for the workman has argued that he was terminated illegally by the management. He had worked as Salesman in Red Cross U.T. Canteen at PGI complex, Sector 12, Chandigarh and he had worked from 1991 upto October 2011 and management No.1 informed that canteen is going to be renovated and he will be called back after renovation but nobody called him. He waited for sufficient time and in August 2012 he requested for his reinstatement but he was refused reinstatement. Neither he was paid any salary in lieu of notice period nor he was given any retrenchment compensation. Hence, the management has violated the provisions of Section 25-F of the ID Act. The workman has placed on record EPF slip Exhibit 'W1'. He further argued that the Indian Red Cross Society Canteen was run by management No.1 and wholly solely In-charge for the canteen. Hence there is employer-employee relationship between management No.1 and workman. He prayed for reinstatement of the workman with continuity of service and full back wages.

9. On the other hand, learned representative for management No.2 has examined Shri Sushil Kumar—Training Supervisor-cum-Incharge, Court Cases as MW1, who deposed that the PGI, Chandigarh has give three locations / spaces in their premises for running canteen on rent basis and it was decided to give the premises to some person on license fee basis and such person was named as Manager of the Canteen, on the terms & conditions agreed with the said Manager and management No.1, who has to pay the monthly license fee to management No.1 after deducting his profit and other expenses. Different persons were engaged as Manager on license fee basis from time to time. As per terms & conditions of agreement, the manpower was engaged by the manager at his own level and the same was working under his direct supervision. Even liability of wages, EPF, ESI etc. was also that of the said manager as mentioned in the agreement. He further deposed that there is no employer-employee relationship between management No.1 and workman. The canteens were closed down on 31.08.2011.

10. Learned representative for the management has argued that there is no employer-employee relationship between the parties as the PGI Chandigarh has given space for running canteen on rent basis. The premises was given on licence fee basis and such person was named as Manager of the canteen on the terms & conditions agreed between the said Manager and management No.1 so the manpower was engaged by the said Manager at his own level and the workman was working under his direct supervision. Management No.1 neither appointed the workman nor terminated the services of the workman so there is no relationship of employer-employee between management No.1 and workman. Since there is no relationship of employer-employee between management No.1 and workman so question of applicability of provisions of Section 25-F of the ID Act against management No.1 does not arise as such the present industrial dispute *qua* management No.1 is liable to be rejected and there is no illegal termination on the part of management No.1.

11. After giving my careful consideration to the rival contention of both the sides, I find that it is nowhere disputed that the workman was engaged as Salesman in the Indian Red Cross Society. The main argument addressed by management No.1 is that there is no employer-employee relationship between management No.1 and workman. On this aspect I have gone through the evidence of both the parties. AW1 simply stated that he was engaged by management No.1 and they were called and told that canteen is going to be renovated and after renovation they will be taken back on duty but later on they were refused to join the duties and at the time of termination he was being paid salary of ₹ 4,500/- per month by management No.1 after deduction of PF and ESI.

12. During the cross-examination this witness AW1 clearly stated that the EPF number in which deduction of EPF was used to be deposited was that of Red Cross and he has proved on record EPF Slip Exhibit 'W1' which bears the EPF code number allotted to the canteen in the PGI. Exhibit 'W1' clearly mentioned the name that is UT Red Cross Canteen. No appointment letter was ever issued to the workman. On the other hand, Shri Sushil Kumar, MW1 himself stated that the PGI Chandigarh has given its premises on rent basis for running the canteen and accordingly, it was decided to give the premises to some person on licence fee basis and such person was named as Manager of the canteen on the terms & conditions and agreed between the said Manager and management No.1, who was to pay monthly licence fee to management No.1 after deducting his profit and other expenditure. After cross-examination this witness has admitted that it is correct that PGI has given the canteen on rent basis to the Indian Red Cross Society, Union Territory Chandigarh and the PGI has not given canteen on rent to the Manager. It is correct that in this agreement it is mentioned that the consolidated pay of Manager will be ₹ 500/- per month which is Exhibit 'MX' and suggestion was put to this witness regarding getting sign of salary register of the worker from DDO (Drawing & Disbursing Officer) of Indian Red Cross Society was denied. This witness further stated that he can tell about the supervision of the work of Manager as well as to inspect the premises of the canteen by the Organising Secretary, Cashier, Secretary and some time Chairman. He further admitted that no notice of closer of canteen was given to the Manager or the workman.

13. From the perusal of the evidence read as a whole it is crystal clear that the Indian Red Cross Society has taken the canteen on rent basis from PGI. They further entered into the agreement with Manager to run staff canteen whereas over all in charge of canteen was management e. Indian Red Cross Society management and management No.2 was also employee of management No.1. So as regards the employment of the workman is concerned he was also getting salary from management No.1 as per EPF slip Exhibit 'W1'. It is crystal clear that EPF was deducted and deposited by the Indian Red Cross Society. No doubt the workman has not placed on record any other document except EPF slip but it is already clear from the evidence of the both the parties that the workman was employee of management No.1.

14. No doubt as per evidence it is clear that at present the canteen it does not exist as canteen was closed down on 31.08.2011. Hence, the workman cannot be reinstated at this juncture but it is also clear that no notice of closer of canteen was given to the workman. It was very much in the knowledge of management No.1 that the canteen is going to be closed on 31.08.2011. No retrenchment was given to the workman at the time of closer. Thus it is accordingly held that the management has terminated the services of the workman illegally. Considering the facts and circumstances of the case, ends of justice would be met if the workman is compensated in lump sum amount of ₹ 50,000/-. However, it is made clear that since management No.2 is employee of Indian Red Cross Society i.e. management No.1 so there is no direct relationship of employer-employee between management No.2 and the workman so no relief can be claimed against management No.2 and there will be solely and severally liability of management No.1. Accordingly both these issues are decided in favour of the workman and against management No.1.

**RELIEF :**

15. In the light of findings on the issues above, this industrial dispute is partly allowed. The workman is entitled for lump sum compensation of ₹ 50,000/- solely and severally to be paid by management No.1. Management No.1 is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . .,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal &amp; Labour Court,

Union Territory, Chandigarh.

UID No.PB0095.

The 18.10.2019.

## CHANDIGARH ADMINISTRATION

## LABOUR DEPARTMENT

**Notification**

The 16th December, 2019

**No. 13/1/9682-HII(2)-2019/20136.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 12/2016, dated 18.10.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between:

SHESH RAM S/O SHRI THAKUR SINGH R/O HOUSE NO.196, KHUDA LAHORA, UNION TERRITORY, CHANDIGARH (Workman).

AND

1. THE INDIAN RED CROSS SOCIETY, UNION TERRITORY CHANDIGARH THROUGH ITS DIRECTOR/MANAGING DIRECTOR, KARUNA SADAN BUILDING, SECTOR 11-B, CHANDIGARH

2. MANAGER, INDIAN RED CROSS CANTEEN, PGI, SECTOR 12, CHANDIGARH (Management).

**AWARD**

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he was engaged as Salesman in 2000 by management No.1 at Indian Red Cross Canteen at PGI Complex, Sector 12, Chandigarh and he had worked under the supervision of management No.2, who is the Manager of management No. 1. The workman had worked upto October 2011. The workman along with others were called by management No.1 and informed that the canteen is going to be renovated and they will be called back after renovation of the canteen. Thereafter the workman visited along with others to the office of management No.1 many times but they were assured that they will be reinstated with continuity of service with back wages as such the workman waited for sufficient time and ultimately in the month of August 2012 he requested management No.1 that 9-10 months had already been lapsed and it is only then they refused to reinstate the workman into service. The

workman was being paid salary by the management after deduction of PF/ESI and the management was depositing the PF in the PF account of the workman. At the time of termination of services of the workman, the management was paying salary Rs. 4,500/- per month after deduction of PF/ESI and the salary paid to the workman was less than the minimum wages. The workman had continuously worked with the management No.1 as Salesman and had completed more than 240 days of service in each calendar year and had also completed more than 240 days in 12 months prior to impugned termination. The management had terminated the services of the workman without issuing one month notice and without paying any retrenchment compensation so the management had violated the provisions of Section 25-F of the ID Act. Since the management had shunted out the workman without following the provisions of the ID Act so the action of the management amounts unfair labour practice and the same is violative of Section 25-T of the ID Act. Ultimately, it is prayed that the workman be reinstated with continuity of service and full back wages.

3. Management No. 1 contested the case of the workman and filed written statement raising preliminary objection that there is no relationship of employee and employer between the workman and answering management. The PGI authorities had given some space within the premises of the PGI, Chandigarh for running a canteen. The said space was given by the PGI to management No.1 on license basis which was not renewed after 31.08.2011. In order to run the canteen, management No.1 engaged a Manager for running the said canteen at his own level with his own infrastructure etc. on the terms & conditions as agreed between management No.1 and the contractor/Manager, engaged from time to time. As per the agreement, the said contractor/Manager was authorised to engage any manpower at his own level and as per his own convenience with the categorical condition that such manpower would not be the employee of management No. 1. On merits, it is pleaded that the workman was working under management No.2. As the workman was never been in the employment of management No.1 so there was no occasion for giving any assurance to the workman for his reinstatement etc. When the license of the premises was not renewed by the PGI after 31.08.2011 there was no occasion for the workman to continue to work with management No.2 upto October 2011. Neither the workman visited the office of management No. 1 at any point of time nor any assurance was given to the workman by management No.1 for the simple reason that there was no relationship of employee and employer between the workman and management No.1. It was management No.2 who was responsible to deduct the EPF from the wages of the manpower engaged by management No.2, if any and management No.1 was not responsible for the same. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. Upon notice, management No.1 appeared through its representative thereafter none appeared on behalf of management No.2 as such management No.2 was proceeded against *ex parte*. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether there is no relationship of employee & employer in between workman & management No.1 ? OPM-1
3. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, management No.1 examined Shri Sushil Kumar-Training Supervisor-cum-Incharge, Court Cases as MW1. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

#### **ISSUE No. 1 & 2:**

7. Both these issues are taken up together to avoid repetition of discussion. While stepping into the witness as AW1 the workman deposed that he was engaged as Salesman in 2000 by the management at Red Cross U.T. Canteen at PGI Complex, Sector 12, Chandigarh and he worked under the supervision



of management No.2 who is the Manager of management No.1 till October 2011. Thereafter he along with others was called by management No.1 and were informed that the canteen is going to be renovated and they will be called back after renovation of the canteen and during renovation period the canteen will be remained closed. He further deposed that he along with other approached the office of management No.1 various time but he was assured that he will be reinstated along with others. In the month of August 2012 management No.1 was finally refused to join the duties. He also deposed that he had completed more than 240 days of service in each calendar year and had also completed more than 240 days in last twelve months preceding his termination. He further deposed that he had worked from the date of joining with management No.1 under the supervision of various Managers, which were engaged and disengaged by the management after some years.

8. Learned representative for the workman has argued that he was terminated illegally by the management. He had worked as Salesman in Red Cross U.T. Canteen at PGI complex, Sector 12, Chandigarh and he had worked from 2000 upto October 2011 and management No.1 informed that canteen is going to be renovated and he will be called back after renovation but nobody called him. He waited for sufficient time and in August 2012 he requested for his reinstatement but he was refused reinstatement. Neither he was paid any salary in lieu of notice period nor he was given any retrenchment compensation. Hence, the management has violated the provisions of Section 25-F of the ID Act. The workman has placed on record EPF slip Exhibit 'W1'. He further argued that the Indian Red Cross Society Canteen was run by management No.1 and wholly solely In-charge for the canteen. Hence there is employer-employee relationship between management No.1 and workman. He prayed for reinstatement of the workman with continuity of service and full back wages.

9. On the other hand, learned representative for management No.2 has examined Shri Sushil Kumar—Training Supervisor-cum-Incharge, Court Cases as MW1, who deposed that the PGI, Chandigarh has give three locations / spaces in their premises for running canteen on rent basis and it was decided to give the premises to some person on license fee basis and such person was named as Manager of the Canteen, on the terms & conditions agreed with the said Manager and management No.1, who has to pay the monthly license fee to management No.1 after deducting his profit and other expenses. Different persons were engaged as Manager on license fee basis from time to time. As per terms & conditions of agreement, the manpower was engaged by the manager at his own level and the same was working under his direct supervision. Even liability of wages, EPF, ESI etc. was also that of the said manager as mentioned in the agreement. He further deposed that there is no employer-employee relationship between management No.1 and workman. The canteens were closed down on 31.08.2011.

10. Learned representative for the management has argued that there is no employer-employee relationship between the parties as the PGI Chandigarh has given space for running canteen on rent basis. The premises was given on licence fee basis and such person was named as Manager of the canteen on the terms & conditions agreed between the said Manager and management No.1 so the manpower was engaged by the said Manager at his own level and the workman was working under his direct supervision. Management No.1 neither appointed the workman nor terminated the services of the workman so there is no relationship of employer-employee between management No.1 and workman. Since there is no relationship of employer-employee between management No.1 and workman so question of applicability of provisions of Section 25-F of the ID Act against management No.1 does not arise as such the present industrial dispute *qua* management No.1 is liable to be rejected and there is no illegal termination on the part of management No.1.

11. After giving my careful consideration to the rival contention of both the sides, I find that it is nowhere disputed that the workman was engaged as Salesman in the Indian Red Cross Society. The main argument addressed by management No.1 is that there is no employer-employee relationship between management No.1 and workman. On this aspect I have gone through the evidence of both the parties. AW1 simply stated that he was engaged by management No.1 and they were called and told that canteen is going to be renovated and after renovation they will be taken back on duty but later on they were refused to join the duties and at the time of termination he was being paid salary of ₹ 4,500/- per month by management No.1 after deduction of PF and ESI.

12. During the cross-examination this witness AW1 clearly stated that the EPF number in which deduction of EPF was used to be deposited was that of Red Cross and he has proved on record EPF Slip Exhibit 'W1' which bears the EPF code number allotted to the canteen in the PGI. Exhibit 'W1' clearly mentioned the name that is UT Red Cross Canteen. No appointment was ever issued to the workman. On the other hand, Shri Sushil Kumar, MW1 himself stated that the PGI Chandigarh has given its premises on rent basis for running the canteen and accordingly, it was decided to give the premises to some person on licence fee basis and such person was named as Manager of the canteen on the terms & conditions and agreed between the said Manager and management No.1, who was to pay monthly licence fee to management No.1 after deducting his profit and other expenditure. After cross-examination this witness has admitted that it is correct that PGI has given the canteen on rent basis to the Indian Red Cross Society, Union Territory Chandigarh and the PGI has not given canteen on rent to the Manager. It is correct that in this agreement it is mentioned that the consolidated pay of Manager will be Rs. 500/- per month which is Exhibit 'MX' and suggestion was put to this witness regarding getting sign of salary register of the worker from DDO (Drawing & Disbursing Officer) of Indian Red Cross Society was denied. This witness further stated that he can tell about the supervision of the work of Manager as well as to inspect the premises of the canteen by the Organising Secretary, Cashier, Secretary and some time Chairman. He further admitted that no notice of closer of canteen was given to the Manager or the workman.

13. From the perusal of the evidence read as a whole it is crystal clear that the Indian Red Cross Society has taken the canteen on rent basis from PGI. They further entered into the agreement with Manager to run staff canteen whereas over all in charge of canteen was management No.1 i.e. Indian Red Cross Society management and management No.2 was also employee of management No. 1. So as regards the employment of the workman is concerned he was also getting salary from management No.1 as per EPF slip Exhibit 'W1'. It is crystal clear that EPF was deducted and deposited by the Indian Red Cross Society. No doubt the workman has not placed on record any other document except EPF slip but it is already clear from the evidence of the both the parties that the workman was employee of management No.1.

14. No doubt as per evidence it is clear that at present the canteen it does not exist as canteen was closed down on 31.08.2011. Hence, the workman cannot be reinstated at this juncture but it is also clear that no notice of closer of canteen was given to the workman. It was very much in the knowledge of management No.1 that the canteen is going to be closed on 31.08.2011. No retrenchment was given to the workman at the time of closer. Thus it is accordingly held that the management has terminated the services of the workman illegally. Considering the facts and circumstances of the case, ends of justice would be met if the workman is compensated in lump sum amount of Rs. 50,000/-. However, it is made clear that since management No.2 is employee of Indian Red Cross Society i.e. management No.1 so there is no direct relationship of employer-employee between management No.2 and the workman so no relief can be claimed against management No.2 and there will be solely and severally liability of management No.1. Accordingly both these issues are decided in favour of the workman and against management No.1.

**RELIEF :**

15. In the light of findings on the issues above, this industrial dispute is partly allowed. The workman is entitled for lump sum compensation of Rs.50,000/- solely and severally to be paid by management No.1. Management No.1 is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.). . . .,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.

UID No.PB0095.

Dated: 18-10-2019.

## CHANDIGARH ADMINISTRATION

## LABOUR DEPARTMENT

## Notification

The 16th December, 2019

**No. 13/1/9683-HII(2)-2019/20154.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 13/2016, dated 18.10.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

RAJINDER PAL SINGH S/O SHRI SUDHIR PAL R/O VILLAGE KANSAL, SAS NAGAR, PUNJAB (Workman)

AND

1. THE INDIAN RED CROSS SOCIETY, UNION TERRITORY CHANDIGARH THROUGH ITS DIRECTOR/MANAGING DIRECTOR, KARUNA SADAN BUILDING, SECTOR 11-B, CHANDIGARH

2. MANAGER, INDIAN RED CROSS CANTEEN, PGI, SECTOR 12, CHANDIGARH (Management).

## AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he was engaged as Helper in 2002 by management No.1 at Indian Red Cross Canteen at PGI Complex, Sector 12, Chandigarh and he had worked under the supervision of management No.2, who is the Manager of management No.1. The workman had worked upto October 2011. The workman along with others were called by management No.1 and informed that the canteen is going to be renovated and they will be called back after renovation of the canteen. Thereafter the workman visited along with others to the office of management No.1 many times but they were assured that they will be reinstated with continuity of service with back wages as such the workman waited for sufficient time and ultimately in the month of August 2012 he requested management No.1 that 9-10 months had already been lapsed and it is only then they refused to reinstate the workman into service. The workman was being paid salary by the management after deduction of PF/ESI and the management was depositing the PF in the PF account of the workman. At the time of termination of services of the workman, the management was paying salary Rs. 4,000/- per month after deduction of PF/ESI and the salary paid to the workman was less than the minimum wages. The workman had continuously worked with the management No. 1 and had completed more than 240 days of service in each calendar year and had also completed more than 240 days in 12 months prior to impugned termination. The management had terminated the services of the workman without issuing one month notice and without paying any retrenchment compensation so the management had violated the provisions of Section 25-F of the ID Act. Since the management had shunted out the workman without following the provisions of the ID Act so the action of the management amounts unfair labour practice and the same is violative of Section 25-T of the ID Act. Ultimately, it is prayed that the workman be reinstated with continuity of service and full back wages.

3. Management No. 1 contested the case of the workman and filed written statement raising preliminary objection that there is no relationship of employee and employer between the workman and answering management. The PGI authorities had given some space within the premises of the PGI, Chandigarh for running a canteen. The said space was given by the PGI to management No.1 on license basis which was not renewed after 31.08.2011. In order to run the canteen, management No.1 engaged a Manager for running the said canteen at his own level with his own infrastructure etc. on the terms &

conditions as agreed between management No.1 and the contractor/Manager, engaged from time to time. As per the agreement, the said contractor/Manager was authorised to engage any manpower at his own level and as per his own convenience with the categorical condition that such manpower would not be the employee of management No. 1. On merits, it is pleaded that the workman was working under management No. 2. As the workman was never been in the employment of management No.1 so there was no occasion for giving any assurance to the workman for his reinstatement etc. When the license of the premises was not renewed by the PGI after 31.08.2011 there was no occasion for the workman to continue to work with management No.2 upto October 2011. Neither the workman visited the office of management No.1 at any point of time nor any assurance was given to the workman by management No.1 for the simple reason that there was no relationship of employee and employer between the workman and management No.1. It was management No.2 who was responsible to deduct the EPF from the wages of the manpower engaged by management No.2, if any and management No.1 was not responsible for the same. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. Upon notice, none appeared on behalf of management No.2 despite service as such management No.2 was proceeded against *ex parte*. From the pleadings of the parties, following issues were framed:—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether there is no relationship of employee & employer in between workman & management No.1 ? OPM-1
3. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, management No. 1 examined Shri Sushil Kumar—Training Supervisor-cum-Incharge, Court Cases as MW1. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows:—

#### **ISSUE No. 1 & 2 :**

7. Both these issues are taken up together to avoid repetition of discussion. While stepping into the witness as AW1 the workman deposed that he was engaged as Helper in 2002 by the management at Red Cross U.T. Canteen at PGI Complex, Sector 12, Chandigarh and he worked under the supervision of management No.2 who is the Manager of management No.1 till October 2011. Thereafter he along with others was called by management No.1 and were informed that the canteen is going to be renovated and they will be called back after renovation of the canteen and during renovation period the canteen will be remained closed. He further deposed that he along with other approached the office of management No.1 various time but he was assured that he will be reinstated along with others. In the month of August 2012 management No.1 was finally refused to join the duties. He also deposed that he had completed more than 240 days of service in each calendar year and had also completed more than 240 days in last twelve months preceding his termination. He further deposed that he had worked from the date of joining with management No. 1 under the supervision of various Managers, which were engaged and disengaged by the management after some years.

8. Learned representative for the workman has argued that he was terminated illegally by the management. He had worked as Helper in Red Cross U.T. Canteen at PGI complex, Sector 12, Chandigarh and he had worked from 2002 upto October 2011 and management No.1 informed that canteen is going to be renovated and he will be called back after renovation but nobody called him. He waited for sufficient time and in August 2012 he requested for his reinstatement but he was refused reinstatement. Neither he was paid any salary in lieu of notice period nor he was given any retrenchment compensation. Hence, the management has violated the provisions of Section 25-F of the ID Act. The workman has placed on record



EPF slip Mark 'A'. He further argued that the Indian Red Cross Society Canteen was run by management No.1 and wholly solely In-charge for the canteen. Hence there is employer-employee relationship between management No.1 and workman. He prayed for reinstatement of the workman with continuity of service and full back wages.

9. On the other hand, learned representative for management No.2 has examined Shri Sushil Kumar-Training Supervisor-cum-Incharge, Court Cases as MW1, who deposed that the PGI, Chandigarh has give three locations/spaces in their premises for running canteen on rent basis and it was decided to give the premises to some person on license fee basis and such person was named as Manager of the Canteen, on the terms & conditions agreed with the said Manager and management No.1, who has to pay the monthly license fee to management No.1 after deducting his profit and other expenses. Different persons were engaged as Manager on license fee basis from time to time. As per terms & conditions of agreement, the manpower was engaged by the manager at his own level and the same was working under his direct supervision. Even liability of wages, EPF, ESI etc. was also that of the said manager as mentioned in the agreement. He further deposed that there is no employer-employee relationship between management No.1 and workman. The canteens were closed down on 31.08.2011.

10. Learned representative for the management has argued that there is no employer-employee relationship between the parties as the PGI Chandigarh has given space for running canteen on rent basis. The premises was given on licence fee basis and such person was named as Manager of the canteen on the terms & conditions agreed between the said Manager and management No.1 so the manpower was engaged by the said Manager at his own level and the workman was working under his direct supervision. Management No.1 neither appointed the workman nor terminated the services of the workman so there is no relationship of employer-employee between management No.1 and workman. Since there is no relationship of employer-employee between management No. 1 and workman so question of applicability of provisions of Section 25-F of the ID Act against management No.1 does not arise as such the present industrial dispute *qua* management No.1 is liable to be rejected and there is no illegal termination on the part of management No. 1.

11. After giving my careful consideration to the rival contention of both the sides, I find that it is nowhere disputed that the workman was engaged as Helper in the Indian Red Cross Society. The main argument addressed by management No.1 is that there is no employer-employee relationship between management No.1 and workman. On this aspect I have gone through the evidence of both the parties. AW1 simply stated that he was engaged by management No.1 and they were called and told that canteen is going to be renovated and after renovation they will be taken back on duty but later on they were refused to join the duties and at the time of termination he was being paid salary of Rs. 4,000/- per month by management No.1 after deduction of PF and ESI.

12. During the cross-examination this witness AW1 clearly stated that the EPF number in which deduction of EPF was used to be deposited was that of Red Cross and he has proved on record document Mark 'A' which bears the EPF code number allotted to the canteen in the PGI. Mark 'A' clearly mentioned the name that is UT Red Cross Canteen. No appointment letter was ever issued to the workman. On the other hand, Shri Sushil Kumar, MW1 himself stated that the PGI Chandigarh has given its premises on rent basis for running the canteen and accordingly, it was decided to give the premises to some person on licence fee basis and such person was named as Manager of the canteen on the terms & conditions and agreed between the said Manager and management No.1, who was to pay monthly licence fee to management No.1 after deducting his profit and other expenditure. After cross-examination this witness has admitted that it is correct that PGI has given the canteen on rent basis to the Indian Red Cross Society, Union Territory Chandigarh and the PGI has not given canteen on rent to the Manager. It is correct that in this agreement it is mentioned that the consolidated pay of Manager will be Rs. 500/- per month which is Exhibit 'MX' and suggestion was put to this witness regarding getting sign of salary register of the worker from DDO (Drawing & Disbursing Officer) of Indian Red Cross Society was denied. This witness further stated that he can tell about the supervision of the work of Manager as well as to inspect the premises of the canteen by the Organising Secretary, Cashier, Secretary and some time Chairman. He further admitted that no notice of closer of canteen was given to the Manager or the workman.

13. From the perusal of the evidence read as a whole it is crystal clear that the Indian Red Cross Society has taken the canteen on rent basis from PGI. They further entered into the agreement with Manager to run staff canteen whereas over all in charge of canteen was management No.1 i.e. Indian Red Cross Society management and management No. 2 was also employee of management No.1. So as regards the employment of the workman is concerned he was also getting salary from management No.1 as per EPF slip Mark 'A'. It is crystal clear that EPF was deducted and deposited by the Indian Red Cross Society. No doubt the workman has not placed on record any other document except EPF slip but it is already clear from the evidence of the both the parties that the workman was employee of management No. 1.

14. No doubt as per evidence it is clear that at present the canteen it does not exist as canteen was closed down on 31.08.2011. Hence, the workman cannot be reinstated at this juncture but it is also clear that no notice of closer of canteen was given to the workman. It was very much in the knowledge of management No.1 that the canteen is going to be closed on 31.08.2011. No retrenchment was given to the workman at the time of closer. Thus it is accordingly held that the management has terminated the services of the workman illegally. Considering the facts and circumstances of the case, ends of justice would be met if the workman is compensated in lump sum amount of Rs. 50,000/-. However, it is made clear that since management No. 2 is employee of Indian Red Cross Society i.e. management No.1 so there is no direct relationship of employer-employee between management No.2 and the workman so no relief can be claimed against management No. 2 and there will be solely and severally liability of management No. 1. Accordingly both these issues are decided in favour of the workman and against management No. 1.

#### **RELIEF :**

15. In the light of findings on the issues above, this industrial dispute is partly allowed. The workman is entitled for lump sum compensation of Rs. 50,000/- solely and severally to be paid by management No.1. Management No.1 is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.). . . .,

(ANSHUL BERRY),

Dated: 18-10-2019

PRESIDING OFFICER,  
Industrial Tribunal & Labour Court,  
Union Territory Chandigarh.  
UID No.PB0095.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

#### **Notification**

The 16th December, 2019

**No. 13/1/9685-HII(2)-2019/20145.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned

*This is Digitally Signed Gazette. To verify, visit :  
<https://egazette.chd.gov.in>*

hereby publish the following award bearing reference No. 15/2016, dated 18.10.2019 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

ASHOK KUMAR S/O SHRI KISORI LAL R/O HOUSE NO. 261/1, GOVIND NAGAR, NAYAGAON, DISTRICT SAS NAGAR, PUNJAB (Workman)

AND

1. THE INDIAN RED CROSS SOCIETY, UNION TERRITORY, CHANDIGARH THROUGH ITS DIRECTOR/MANAGING DIRECTOR, KARUNA SADAN BUILDING, SECTOR 11-B, CHANDIGARH

2. MANAGER, INDIAN RED CROSS CANTEEN, PGI, SECTOR 12, CHANDIGARH (Management).

#### AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he was engaged as Salesman by management No.1 at Indian Red Cross Canteen at PGI Complex, Sector 12, Chandigarh and he had worked under the supervision of management No. 2, who is the Manager of management No.1. The workman had worked upto October 2011. The workman along with others were called by management No.1 and informed that the canteen is going to be renovated and they will be called back after renovation of the canteen. Thereafter the workman visited along with others to the office of management No.1 many times but they were assured that they will be reinstated with continuity of service with back wages as such the workman waited for sufficient time and ultimately in the month of August 2012 he requested management No.1 that 9-10 months had already been lapsed and it is only then they refused to reinstate the workman into service. The workman was being paid salary by the management after deduction of PF/ESI and the management was depositing the PF in the PF account of the workman. At the time of termination of services of the workman, the management was paying salary ₹ 4,500/- per month after deduction of PF/ESI and the salary paid to the workman was less than the minimum wages. The workman had continuously worked with the management No.1 and had completed more than 240 days of service in each calendar year and had also completed more than 240 days in 12 months prior to impugned termination. The management had terminated the services of the workman without issuing one month notice and without paying any retrenchment compensation so the management had violated the provisions of Section 25-F of the ID Act. Since the management had shunted out the workman without following the provisions of the ID Act so the action of the management amounts unfair labour practice and the same is violative of Section 25-T of the ID Act. Ultimately, it is prayed that the workman be reinstated with continuity of service and full back wages.

3. Management No.1 contested the case of the workman and filed written statement raising preliminary objection that there is no relationship of employee and employer between the workman and answering management. The PGI authorities had given some space within the premises of the PGI, Chandigarh for running a canteen. The said space was given by the PGI to management No.1 on license basis which was not renewed after 31.08.2011. In order to run the canteen, management No.1 engaged a Manager for running the said canteen at his own level with his own infrastructure etc. on the terms & conditions as agreed between management No.1 and the contractor / Manager, engaged from time to time. As per the agreement, the said contractor / Manager was authorised to engage any manpower at his own level and as per his own convenience with the categorical condition that such manpower would not be the employee of management No.1. On merits, it is pleaded that the workman was working under management No.2. As the workman was never been in the employment of management No.1 so there was no occasion for giving any assurance to the workman for his reinstatement etc. When the license of the premises was not renewed by the PGI after 31.08.2011 there

was no occasion for the workman to continue to work with management No.2 upto October 2011. Neither the workman visited the office of management No.1 at any point of time nor any assurance was given to the workman by management No.1 for the simple reason that there was no relationship of employee and employer between the workman and management No.1. It was management No.2 who was responsible to deduct the EPF from the wages of the manpower engaged by management No.2, if any and management No.1 was not responsible for the same. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. Upon notice, none appeared on behalf of management No.2 despite service as such management No. 2 was proceeded against *ex parte*. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether there is no relationship of employee & employer in between workman & management No.1 ? OPM-1
3. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, management No.1 examined Shri Sushil Kumar – Training Supervisor-cum-Incharge, Court Cases as MW1. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows:-

#### **ISSUE NO. 1 & 2 :**

7. Both these issues are taken up together to avoid repetition of discussion. While stepping into the witness as AW1 the workman deposed that he was engaged as Salesman in the year 1984 by the management at Red Cross U.T. Canteen at PGI Complex, Sector 12, Chandigarh and he worked under the supervision of management No.2 who is the Manager of management No.1 till October 2011. Thereafter he along with others was called by management No.1 and were informed that the canteen is going to be renovated and they will be called back after renovation of the canteen and during renovation period the canteen will be remained closed. He further deposed that he along with other approached the office of management No.1 various time but he was assured that he will be reinstated along with others. In the month of August 2012 management No.1 was finally refused to join the duties. He also deposed that he had completed more than 240 days of service in each calendar year and had also completed more than 240 days in last twelve months preceding his termination. He further deposed that he had worked from the date of joining with management No.1 under the supervision of various Managers, which were engaged and disengaged by the management after some years.

8. Learned representative for the workman has argued that he was terminated illegally by the management. He had worked as Salesman in Red Cross U.T. Canteen at PGI complex, Sector 12, Chandigarh and he had worked from 1984 upto October 2011 and management No.1 informed that canteen is going to be renovated and he will be called back after renovation but nobody called him. He waited for sufficient time and in August 2012 he requested for his reinstatement but he was refused reinstatement. Neither he was paid any salary in lieu of notice period nor he was given any retrenchment compensation. Hence, the management has violated the provisions of Section 25-F of the ID Act. He further argued that the Indian Red Cross Society Canteen was run by management No.1 and wholly solely In-charge for the canteen. Hence there is employer-employee relationship between management No.1 and workman. He prayed for reinstatement of the workman with continuity of service and full back wages.



9. On the other hand, learned representative for management No.2 has examined Shri Sushil Kumar– Training Supervisor-cum-Incharge, Court Cases as MW1, who deposed that the PGI, Chandigarh has give three locations / spaces in their premises for running canteen on rent basis and it was decided to give the premises to some person on license fee basis and such person was named as Manager of the Canteen, on the terms & conditions agreed with the said Manager and management No.1, who has to pay the monthly license fee to management No.1 after deducting his profit and other expenses. Different persons were engaged as Manager on license fee basis from time to time. As per terms & conditions of agreement, the manpower was engaged by the manager at his own level and the same was working under his direct supervision. Even liability of wages, EPF, ESI etc. was also that of the said manager as mentioned in the agreement. He further deposed that there is no employer-employee relationship between management No.1 and workman. The canteens were closed down on 31.08.2011.

10. Learned representative for the management has argued that there is no employer-employee relationship between the parties as the PGI Chandigarh has given space for running canteen on rent basis. The premises was given on licence fee basis and such person was named as Manager of the canteen on the terms & conditions agreed between the said Manager and management No.1 so the manpower was engaged by the said Manager at his own level and the workman was working under his direct supervision. Management No.1 neither appointed the workman nor terminated the services of the workman so there is no relationship of employer-employee between management No.1 and workman. Since there is no relationship of employer-employee between management No.1 and workman so question of applicability of provisions of Section 25-F of the ID Act against management No.1 does not arise as such the present industrial dispute *qua* management No.1 is liable to be rejected and there is no illegal termination on the part of management No.1.

11. After giving my careful consideration to the rival contention of both the sides, I find that it is nowhere disputed that the workman was engaged as Salesman in the Indian Red Cross Society. The main argument addressed by management No.1 is that there is no employer-employee relationship between management No.1 and workman. On this aspect I have gone through the evidence of both the parties. AW1 simply stated that he was engaged by management No.1 and they were called and told that canteen is going to be renovated and after renovation they will be taken back on duty but later on they were refused to join the duties and at the time of termination he was being paid salary of ₹ 4,500/- per month by management No.1 after deduction of PF and ESI.

12. During the cross-examination this witness AW1 clearly stated that the EPF number in which deduction of EPF was used to be deposited was that of Red Cross. No appointment letter was ever issued to the workman. On the other hand, Shri Sushil Kumar, MW1 himself stated that the PGI Chandigarh has given its premises on rent basis for running the canteen and accordingly, it was decided to give the premises to some person on licence fee basis and such person was named as Manager of the canteen on the terms & conditions and agreed between the said Manager and management No.1, who was to pay monthly licence fee to management No.1 after deducting his profit and other expenditure. After cross-examination this witness has admitted that it is correct that PGI has given the canteen on rent basis to the Indian Red Cross Society, Union Territory Chandigarh and the PGI has not given canteen on rent to the Manager. It is correct that in this agreement it is mentioned that the consolidated pay of Manager will be ₹ 500/- per month which is Exhibit 'MX' and suggestion was put to this witness regarding getting sign of salary register of the worker from DDO (Drawing & Disbursing Officer) of Indian Red Cross Society was denied. This witness further stated that he can tell about the supervision of the work of Manager as well as to inspect the premises of the canteen by the Organising Secretary, Cashier, Secretary and some time Chairman. He further admitted that no notice of closer of canteen was given to the Manager or the workman.

13. From the perusal of the evidence read as a whole it is crystal clear that the Indian Red Cross Society has taken the canteen on rent basis from PGI. They further entered into the agreement with Manager to run staff canteen whereas over all in charge of canteen was management No.1 i.e. Indian Red Cross Society management and management No.2 was also employee of management No.1. So as regards employment of the workman is concerned, he was also getting salary from management No.1. It is crystal clear that EPF was deducted and deposited by the Indian Red Cross Society. No doubt the workman has not placed on record any other document in this regard but it is already clear from the evidence of the both the parties that the workman was employee of management No.1.

14. No doubt as per evidence it is clear that at present the canteen it does not exist as canteen was closed down on 31.08.2011. Hence, the workman cannot be reinstated at this juncture but it is also clear that no notice of closer of canteen was given to the workman. It was very much in the knowledge of management No.1 that the canteen is going to be closed on 31.08.2011. No retrenchment was given to the workman at the time of closer. Thus it is accordingly held that the management has terminated the services of the workman illegally. Considering the facts and circumstances of the case, ends of justice would be met if the workman is compensated in lump sum amount of ₹ 50,000/-. However, it is made clear that since management No.2 is employee of Indian Red Cross Society i.e. management No.1 so there is no direct relationship of employer-employee between management No.2 and the workman so no relief can be claimed against management No.2 and there will be solely and severally liability of management No.1. Accordingly both these issues are decided in favour of the workman and against management No.1.

**RELIEF :**

15. In the light of findings on the issues above, this industrial dispute is partly allowed. The workman is entitled for lump sum compensation of ₹ 50,000/- solely and severally to be paid by management No.1. Management No.1 is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

The 18.10.2019.

(Sd.) . . . ,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No.PB0095.

Secretary Labour,  
Chandigarh Administration.

## CHANGE OF NAME

I, Sunit Bala, w/o Sh. Tajinder Singh, r/o 2333, First Floor, Sector 45-C, Chandigarh, have changed my name to Sunita.

[84—1]

I, Dimple, w/o Munish Chadha, r/o # 2332, Sector 19-C, Chandigarh, have changed my name to Dimple Chadha.

[85—1]

I, Ram Pal Rathore, s/o Sh. Chhatar Pal, r/o # 12, Type 12H, PGI Campus, Sector 12, Chandigarh, Pin 160012, have changed my name to Ram Paul Rathour.

[86—1]

I, Anand Kishore, s/o Gauri Lal, r/o 5549, Sector 56, Chandigarh, have changed my name to Anand Kishor.

[87—1]

I, Ramesh Kumar, s/o Lila Ram, r/o H. No. 1168-B, Sector 41B, Chandigarh, have changed my name to Ramesh Kumar Passi.

[88—1]

I, Subhash Chander, s/o Ram Lolarakh, # 194, Phase-I, Bapudham Colony, Sector 26, Chandigarh, have changed my name to Subhash Chandra.

[89—1]

I, Savita, d/o Ishwar, r/o # 1027, Sector 52, Chandigarh, have changed my name to Noor.

[90—1]

I, Raju, s/o Salahu, r/o H.No. 333-A, Village Dariya, UT, Chandigarh, have changed my & Father's name to Mohd. Saleem, s/o Salahu Din.

[91—1]

I, Harikesh Kumar Pal, s/o Raja Ram, # 1031, Sector 36-C, Chandigarh, have changed my name to Harikesh Kumar.

[92—1]

I, Jitender, s/o Darshan Lal, r/o # 1087/2, Morigate, Manimajra, Chandigarh, have changed my name to Jitender Kumar.

[93—1]

I, Savita, d/o Jai Ram, House 5379, Maloya Colony, Chandigarh, have changed my name to Savita Jai Ram Vishwakarma.

[94—1]

## नाम परिवर्तन

मैं, Ekta, पुत्री Sh. Mangat Ram, निवासी # 1468, सेक्टर 22-सी, चंडीगढ़, घोषणा करती हूँ कि मेरे कुछ दस्तावेजों में पिताजी का नाम Raghubir Singh गलत दर्ज है, लेकिन मेरे पिता का सही नाम Sh. Mangat Ram है।

[95—1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/ public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc. "